

114.3 CMR DIVISION OF HEALTH CARE FINANCE AND POLICY

114.3 CMR 9.00: INDEPENDENT LIVING SERVICES FOR THE PERSONAL CARE ATTENDANT PROGRAM

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9.01: General Provisions

(1) Scope, Purpose and Effective Date. 114.3 CMR 9.00 governs the rates of payment effective January 1, 2008 to be used by all governmental units for the personal care attendant program. The regulation also governs payments for personal care attendant services provided to individuals covered by the Workers' Compensation Act, M.G.L. c.152. Rates for Transitional Living Services are approved under 114.5 CMR 4.00 Rates for Certain Social, Rehabilitation and Health Care Services.

(2) Coverage. The payment rates established by 114.3 CMR 9.00 apply to personal care services provided by eligible providers to enable publicly-aided persons with permanent or chronic disabilities to live independently in the community. The payment rates established by 114.3 CMR 9.00 are full compensation for services rendered and for certain related administrative or supervisory duties rendered in the provision of services.

(3) Disclaimer of Authorization of Services. 114.3 CMR 9.00 is not authorization for or approval of the services for which rates are established by 114.3 CMR 9.00. Governmental units which purchase personal care attendant services are responsible for the definition, authorization, and approval of care and services extended to publicly-aided individuals.

(4) Coding Updates and Corrections. The Division may publish procedure code updates and corrections by Administrative Bulletin. Updates may reference coding systems including but not limited to the American Medical Association's Current Procedural Terminology (CPT)© and Healthcare Common Procedure Coding System (HCPCS) maintained by Centers for Medicare and Medicaid Services (CMS). The publication of such updates and corrections will list:

- (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
- (b) deleted codes for which there are no corresponding new codes; and
- (c) codes for entirely new services that require pricing. These codes will be paid on an Individual Consideration basis until rates are established.

(5) Administrative Bulletins. The Division may issue Administrative Bulletins to clarify the substantive provisions of 114.3 CMR 9.00 and to notify interested parties of payment updates pursuant to 114.3 CMR 9.01(4).

9.02: Definitions

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Meaning of Terms. Terms used in 114.3 CMR 9.00, unless stated otherwise, shall have the following meanings:

Activities of Daily Living (ADLs). Those specific activities described in 130 CMR 422.410(A) and the Contract for Personal Care Management (PCM) Services. Such activities performed by a PCA to physically assist a member to transfer, take medications, bathe or groom, dress and undress, engage in passive range of motion exercises, eat, and toilet.

Activity Form. The timesheet developed and distributed by the fiscal intermediary to the member for recording all PCA activity time for each pay period. The member or the member's surrogate submits the activity form to the fiscal intermediary.

Activity Time. The actual amount of time spent by a PCA physically assisting the member with ADLs and IADLs. Activity time is reported on the activity form.

Consumer. A MassHealth Member who is receiving PCA services. The consumer is the employer of the PCA.

Division. The Division of Health Care Finance and Policy established under M.G.L.c.118G, formerly the Rate Setting Commission.

Employer Expense Component. The portion of the PCA class rate designated as reimbursement to members for their mandated employer's share of social security, federal and state unemployment taxes, Medicare, and worker's compensation insurance premiums.

Evaluation. An initial determination by the personal care agency of the scope and type of personal care services to be provided to a member who meets the qualifications of 130 CMR 422.403. The evaluation is conducted by a registered nurse and an occupational therapist in accordance with 130 CMR 422.422(C) or 422.438(B).

Fiscal Intermediary. An entity contracting with MassHealth to perform employer-related tasks and related administrative tasks including, but not limited to, tasks described in 130 CMR 422.419(B).

Functional Skills Training. Instructional services provided by a personal care agency in accordance with 130 CMR 422.421 to assist members who have obtained prior authorization for PCA services and their surrogates, if necessary, in developing the skills and resources to maximize the member's management of personal health care, personal care services, ADLs and activities related to the fiscal intermediary.

Governmental Unit. The Commonwealth of Massachusetts and any department, division, agency, board or political subdivision of the Commonwealth.

Holidays. January 1, July 4, Thanksgiving Day, December 25 and any other holiday authorized pursuant to a collective bargaining agreement under M.G.L. c. 150F.

Individual Consideration. Individual Consideration is the method to determine payment for services for service codes for which no rate has been established. The governmental unit or purchaser shall analyze the eligible provider's report of services rendered and charges submitted under the appropriate unlisted

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services or procedures category. The purchaser shall determine an appropriate payment for Individual Consideration procedures in accordance with the following standards and criteria:

- (a) Time required to perform the procedure;
- (b) Degree of skill required in care rendered;
- (c) Severity or complexity of the patient's disease, disorder or disability;
- (d) Policies, procedures and practices of other third party purchasers of care, governmental and private; and
- (e) Applicable relative value studies.

Instrumental Activities of Daily Living (IADLs). Those specific activities described in 130 CMR 422.410(B) that are instrumental to the care of the member's health and are performed by a PCA such as meal preparation and clean-up, laundry, shopping, housekeeping; maintenance of medical equipment, transportation -to medical providers and completion of paperwork required for the member to receive Personal Care Services.

Intake and Orientation Services. Services provided to a member who has been referred to a Personal Care Agency for such services and who has yet to obtain a prior authorization for PCA services. These services include, but are not limited to: determination of eligibility for PCA services; instruction and orientation in the rules, policies, and procedures of the PCA Program; instruction in the member's rights and responsibilities when using PCA services; and instructions in the role of the Personal Care Agency and Fiscal Intermediary, including the use of activity forms.

MassHealth. The medical assistance program administered by the Executive Office of Health and Human Services Division of Medical Assistance pursuant to M.G.L. c.118E and in accordance with Title XIX and XXI of the Federal Social Security Act, and a §1115 Demonstration Waiver.

MassHealth Program Regulations. Regulations governing the MassHealth Personal Care Attendant Program are contained in 130 CMR 422.000 and 130 CMR 450.000.

PCA Services. Physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the members evaluation and re-evaluation, service agreement and 130 CMR 422.410.

PCA Wage Component. The portion of the attendant class rate that is designated as the PCA's gross hourly wage.

Personal Care Agency. A public or private agency or entity under contract with MassHealth to provide PCM services to eligible members in accordance with 130 CMR 422.000 and the PCM services contract.

Personal Care Attendant (PCA). A person who meets the requirements of 130 CMR 422.111(A)(1) and who is hired by a consumer or surrogate to provide PCA services.

Personal Care Management (PCM) Services. Services provided by a personal care management agency to a member in accordance with a contract with MassHealth, including, but not limited to, those services identified in the PCM contract and 130 CMR 422.419(A). PCM services include intake and orientation and functional skills training.

Prior Authorization (PA). An approval, modification, deferral or denial for PCA Services to the

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Consumer by MassHealth in accordance with 130 CMR 422.416 and 422.418.

Publicly-Aided Individual. A person who receives health care and services for which a governmental unit is in whole or in part liable under a statutory program of public assistance. This includes a Consumer.

Re-evaluation. A determination of the scope and type of PCA services provided to a Consumer who has requested a continuation of PCA services, because the current authorization is expiring. The Re-evaluation is conducted by a Registered Nurse and, if appropriate, an Occupational Therapist, in accordance with 130 CMR 422.422(C).

Service Agreement (previously known as the Personal Care Services Plan). A written plan of services, consistent with the requirements of 130 CMR 422.423 and the PCM services contract, that is developed jointly by the personal care agency, the member, and the member's surrogate, if any, which describes the responsibilities of the PCA, the member, the surrogate, the fiscal intermediary, and the personal care agency. If the member does not require a surrogate, the service agreement must state that the member is solely responsible for the management tasks, including hiring, firing, scheduling, training, supervising and otherwise directing the PCA. The service agreement must also describe the type and frequency of functional skills training that the member and the surrogate, if appropriate, requires from the personal care agency to manage the PCA Program successfully.

Transitional Living Services. A program of services in accordance with 130 CMR 422.431 through 422.441 that may be offered by a PCA agency in a structured group living environment for consumers who demonstrate an aptitude for independent living, but who may benefit from a supervised living community.

The Uniform Financial Statements and Independent Auditor's Report (UFR). An annual fiscal filing requirement of revenue and expense activity for programs funded fully or in part by contracts with the Commonwealth. The Operational Services Division issues instructions for UFR preparation and compliance under the provisions of regulation 808 CMR 1.00.

9.03: General Rate Provisions

(1) Services Included in the Rate. The approved rate shall include payment for care and services listed below that are part of the Personal Care Attendant program under 130 CMR 422.401 through 422.423 subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental unit.

(2) Reimbursement as Full Payment. Each eligible provider shall, as a condition of acceptance of payment made by the purchasing governmental unit for services rendered, accept the approved program rate as full payment and discharge of all obligations for services rendered. Any third party payments received on behalf of a Publicly-Aided Consumer shall reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the Consumer.

(3) Payment Limitation. Except as provided in 114.3 CMR 9.03(2), no purchasing governmental unit may pay less than, or more than, the approved program rate.

(4) Rates of Payment for PCM Services.

(a) Rates effective July 3, 2005 to February 29, 2008. The rate of payment for authorized PCM services shall be the rate listed below:

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Code	Modifier	Rate	Unit	Description
99456		\$177.63	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (initial evaluation of a member to determine the need and extent of the need for personal care services) (per evaluation)
99456	-TS	\$102.48	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (code with modifier for Re-evaluations)
T1023		\$47.76	Per Member /Per Month	Screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (per member per month charge for intake and orientation services provided to a member who does not yet have a PA for PCA services) (maximum 3 months)
T2022		\$47.76	Per Member / Per Month	Case management, per month (current PA for PCA services required for each member) (per member per month charge for functional skills training)

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(b) Rates of Payment effective March 1, 2008. The rate of payment for authorized PCM services shall be the rate listed below:

Code	Modifier	Rate	Unit	Description
99456		\$214.87	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (initial evaluation of a member to determine the need and extent of the need for personal care services) (per evaluation)
99456	-TS	\$123.49	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (code with modifier for Re-evaluations)
T1023		\$ 97.90	Per Member / Per Month	Screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (per member per month charge for intake and orientation services provided to a member who does not yet have a PA for PCA services) (maximum 3 months)
T2022		\$ 47.76	Per Member / Per Month	Case management, per month (current PA for PCA services required for each member) (per member per month charge for functional skills training)

(5) PCA Rates. The rates for PCA services consist of two components: The Employer Expense Component and the PCA Wage Component.

(a) Rates effective July 3, 2005. The PCA rates for services provided on or after July 3, 2005 shall remain effective until or unless superseded by the provisions of any collective bargaining

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agreement under M.G.L. c. 150E. The rates in 114.3 CMR 9.03(5) are payment for the following categories as defined below:

1. PCA Rate. Rate of Payment for authorized activity time performed by the PCA.
2. Premium Pay Rate for Overtime. Rate of payment in addition to the regular PCA rate made to the PCA in excess of 40 hours per week (one hundred sixty 15-minute units) for one member subject to a PA from MassHealth. The premium pay rate for overtime is an extra payment paid to the PCA who has worked over 40 activity-time hours per week for one member and who is authorized by MassHealth to be paid premium pay in accordance with 422.418(A).
3. Holiday Rate. Rate of Payment in addition to the regular PCA rate for authorized activity time performed by the PCA on Holidays between the hours of 6:00 A.M. and 12 Midnight.
4. Juror Service Rate. Payment for juror services performed by a PCA during regularly scheduled work hours are reimbursed at the PCA Rate up to a maximum of three days in accordance with 422.418(B).

PCA rates effective July 3, 2005

Code	Modifier	Rate	Unit	Description
T1019		\$ 3.07	15 minutes	Personal care services per 15 minutes, not for an inpatient or resident of a hospital, nursing facility, ICF/MR or IMD, part of the individualized plan of treatment (code may not be used to identify services provided by home health aide or certified nurse assistant) (PA), (for PCA services provided during day or night)
T1019	-TU	\$ 1.54	15 minutes	Personal care services, per 15 minutes, not for an inpatient or resident of a hospital, nursing facility, ICF/MR or IMD, part of the individualized plan of treatment (code may not be used to identify services provided by home health aide or certified nurse assistant) special payment rate, overtime) (PA) (code with modifier for premium pay for overtime)
T1019	-TV	\$ 1.54	15 minutes	Premium Holiday Rate. Services requested on Sundays and holidays in addition to basic services. (MassHealth does not pay for this code on Sundays. For MassHealth, this code should be used for holidays only. Must be billed in conjunction with T1019).

Explanation of PCA Rates effective July 3, 2005

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Wage Component	PCA Rate (Hourly)	PCA Rate (15 minutes)	Holiday Rate (Hourly)	Premium Holiday Rate and Premium Pay Rate for Overtime (15 minutes)
PCA Gross Wage Component	\$ 10.84	\$ 2.71	\$ 16.28	\$ 1.36
Employer Expense Component	\$ 1.44	\$.36	\$ 2.16	\$.18
Total Class Rate	\$ 12.28	\$ 3.07	\$ 18.44	\$ 1.54

(b) Beginning on the effective date of a collective bargaining agreement, the PCA Wage Component is based on amounts established by the collective bargaining agreement.

(c) Employer Expense Component. The Employer Expense Component is the sum of the employer mandated contribution for each statutorily required tax and benefit. Each mandated contribution amount is calculated by multiplying the PCA Wage Component by the percentage required by statute, regulation, or other official document. The Division will issue specific rates in an Administrative Bulletin that will list rates in time increments that conform to the definitions of the procedure codes authorized for payment by MassHealth. The Employer Expense Component for mandated employer expenses is subject to audit and may be adjusted in accordance with provisions of the Fiscal Intermediary contract with the purchasing agency.

9.04: Filing and Reporting Requirements

(1) Reporting for Annual Review. Unless exempted by the Operational Services Division, each operating agency shall, on or before the 15th day of the fifth month after the end of its fiscal year, submit its Uniform Financial Statement and Independent Auditor's Report (UFR) to the Division of Purchase Services, Department of Administration and Finance, completed in accordance with electronic filing requirements.

(a) If the Personal Care Management Agency is also a Fiscal Intermediary, the UFR filing must report as separate programs, the fiscal intermediary function and the remaining personal care services.

(b) When an agency is exempted from filing its UFR by the Operational Services Division (OSD), the agency must send a copy of the letter of exemption from OSD to the Division to confirm its exemption with an explanation of reason(s) for its status.

(2) General Provisions.

(a) Accurate Data. All reports, schedules, additional information, books and records made available to the Division shall be certified under pains and penalties of perjury as true, correct and accurate by the Executive Director or Chief Financial Officer of the Operating Agency.

(b) Examination of Records. Each Operating Agency shall make available all records relating to its operation and all records relating to a realty service or holding company or

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any entity in which there may be a common ownership or interrelated directorate upon request of the Division for examination.

(c) Field Audits. The Division may conduct field audits. The Division will attempt to schedule an audit at a convenient time for both parties.

(3) Non-Compliance. The Division may impose a penalty for failure by an eligible provider to submit accurate and timely information as requested in 114.3 CMR 9.04. The Division may reduce the rates for an amount of time equal to the period of non-compliance. The penalty shall accrue at a rate of 5% per month of non-compliance. The penalty shall not exceed a cumulative total of more than 50%. If a provider is not in full compliance upon completion of the filing of new rates, at no time can the new rates exceed the penalty-adjusted current rate. If the new rate were to exceed the penalty-adjusted current rate, the Division will delay the filing of the new rate until full-compliance with the filing requirements. If the new rate is less than the rate currently in effect, then the new rate will become effective immediately and potentially be subject to further penalty.

9.05: Severability

The provisions of 114.3 CMR 9.00 are severable. If any provision of 114.3 CMR 9.00 or the application of any provision to the personal care attendant program should be held invalid or unconstitutional, such determination shall not be construed to affect the validity or constitutionality of any other provision of 114.3 CMR 9.00 or the application of any other provision.

REGULATORY AUTHORITY

114.3 CMR 9.00: M.G.L. c. 118G.